

House File 511 - Introduced

HOUSE FILE 511

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 166)

A BILL FOR

1 An Act exempting certain farm real estate from the inheritance
2 tax, and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 450.1, subsection 1, paragraph d, Code
2 2013, is amended to read as follows:

3 *d. ~~"Real estate or real~~ "Real estate" or "real property"* for
4 the purpose of appraisal under this chapter means real estate
5 which is the land and appurtenances, including structures
6 affixed thereto.

7 Sec. 2. Section 450.1, subsection 1, Code 2013, is amended
8 by adding the following new paragraphs:

9 NEW PARAGRAPH. *0a. "Farming operation"* means the use of
10 farm real estate to produce a crop as defined in section 717.1
11 or to produce livestock as defined in section 717.1.

12 NEW PARAGRAPH. *00a. (1) "Farm real estate"* means real
13 estate that is all of the following:

14 (a) Ten acres or more that are not laid off into lots
15 of less than ten acres or divided by streets or alleys into
16 parcels of less than ten acres.

17 (b) Used for a farming operation.

18 (2) *"Farm real estate"* includes a residence and associated
19 garage or shed constructed on the real estate and any structure
20 located on the real estate that is constructed for use as part
21 of a farming operation as described in subparagraph (1).

22 Sec. 3. Section 450.7, Code 2013, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 4. This section does not apply to family
25 farm property subject to a qualified exemption and qualified
26 lien as provided in sections 450.9A and 450.9B.

27 Sec. 4. Section 450.9, Code 2013, is amended to read as
28 follows:

29 **450.9 Individual exemptions.**

30 In computing the tax on the net estate, the entire amount of
31 property, all of the following applies:

32 1. The interest in property, and income passing
33 to the surviving spouse, and parents, grandparents,
34 great-grandparents, and other lineal ascendants, children
35 including legally adopted children and biological children

1 entitled to inherit under the laws of this state, stepchildren,
2 and grandchildren, great-grandchildren, and other lineal
3 descendants are exempt from tax.

4 2. Family farm property is exempt from tax as provided in
5 section 450.9A.

6 Sec. 5. NEW SECTION. **450.9A Family farm property —**
7 **qualified exemption.**

8 The tax on real property and personal tangible property
9 as provided in section 450.2 shall not be imposed on family
10 farm property located in this state if a qualified exemption
11 is elected by a person who is passed such property under this
12 chapter. In order to make the election, all of the following
13 must apply:

14 1. The family farm property is limited to the following:

15 a. Farm real estate. However, more than half the total
16 acres of the farm real estate must have been devoted to a
17 farming operation at any time in the last three years prior to
18 the year of the decedent's death.

19 b. Farm machinery and equipment used in the farming
20 operation and passed as part of the same bequest or devise as
21 the farm real estate described in paragraph "a".

22 2. The family farm property is passed to any of the
23 following:

24 a. A qualified individual. The qualified individual must
25 be related to the decedent within the second, third, or fourth
26 degree of consanguinity or affinity, excluding any individual
27 who is exempt from tax as provided in another provision of this
28 chapter. The family farm property may pass to more than one
29 qualified individual to the extent that the interest is shared
30 by all qualified individuals.

31 b. A partnership in which all partners are qualified
32 individuals as described in paragraph "a".

33 c. A family farm corporation or family farm limited
34 liability company as defined in section 9H.1. However, the
35 shareholders of the family farm corporation or members of the

1 family farm limited liability company must all be related to
2 the decedent as qualified individuals as provided in paragraph
3 "a".

4 3. The interest in the farm real estate passes in fee
5 simple, notwithstanding any debt, lien, or other encumbrance
6 against the farm real estate.

7 4. An appraisal prepared pursuant to section 450.24 is filed
8 with the clerk of court and the director of revenue pursuant
9 to section 450.29.

10 5. An inheritance tax qualified exemption statement is
11 filed with the department of revenue on a form prescribed by
12 the department.

13 a. The statement shall include the amount of the tax due as
14 if an election were not made under this section.

15 b. The statement must be filed in the office of the county
16 recorder of the county where the estate is probated, and of the
17 county where the farm real estate is located. The statement
18 must be filed for recording prior to filing the statement with
19 the department. The statement shall be filed in the manner
20 provided in section 558.66. The statement shall be indexed as
21 provided in sections 558.49 and 558.52.

22 c. The statement must be filed with the department on or
23 before the date that the tax is required to be paid under
24 section 450.6.

25 6. a. For ten years from the date of the decedent's
26 death, a person eligible to make an election as provided in
27 this section who conveys the farm real estate to a person
28 not eligible to make such an election is liable for the tax
29 otherwise imposed upon the family farm property as provided in
30 this chapter. A person is not liable for the tax so long as
31 the person being conveyed the farm real estate would have been
32 eligible to make the election if the decedent had died on the
33 date the conveyance was made.

34 b. The department shall assess interest on the amount due as
35 if the tax was delinquent beginning on the date of conveyance

1 at the rate in effect under section 421.7.

2 Sec. 6. NEW SECTION. **450.9B Family farm property —**
3 **qualified lien.**

4 1. A qualified lien is created on farm real estate that
5 is subject to a family farm property qualified exemption as
6 provided in section 450.9A. The amount of the qualified lien
7 equals the amount of the person's tax liability and interest as
8 provided in that section. The lien does not apply to the farm
9 real estate if the lien provided in section 450.7, subsection
10 1, would also have not applied to the farm real estate.

11 2. The qualified lien expires on the date that a person
12 eligible to make an election under section 450.9A is no longer
13 liable for the tax.

14 3. Notwithstanding the requirement that the inheritance tax
15 qualified exemption statement be filed with a county recorder
16 as provided in section 450.9A, a notice of the qualified lien
17 created in this section is not required to be recorded in order
18 to preserve the rights of the department as a lien holder.

19 4. The rights of the department under the qualified lien
20 created in this section have priority over all subsequent
21 mortgages, purchases, or judgment creditors. A conveyance
22 after the decedent's death of the farm real estate does not
23 discharge the qualified lien. However, if any additional tax
24 is determined to be owing under this chapter or chapter 451
25 after the qualified lien has been released under subsection
26 5, paragraph "a", subparagraph (1) or (2), the qualified lien
27 does not have priority over subsequent mortgages, purchases,
28 or judgment creditors unless notice of the qualified lien
29 is recorded in the office of the county recorder in the
30 same counties where the inheritance tax qualified exemption
31 statement is required to be filed pursuant to section 450.9A.

32 5. a. The department of revenue may release the qualified
33 lien by filing in the office of the clerk of the court in
34 the county where the farm real estate is located, where the
35 decedent owner died, or where the estate is pending or was

1 administered, one of the following:

2 (1) A receipt in full payment of the tax.

3 (2) A certificate of nonliability for the tax as to the farm
4 real estate reported in the estate.

5 (3) A waiver of the qualified lien as to all or any
6 part of the farm real estate reported in the estate, which
7 shall release the qualified lien as to the farm real estate
8 designated in the waiver.

9 b. Upon request, the department shall provide a person with
10 a copy of the receipt, certificate, or waiver.

11 Sec. 7. Section 450.10, subsection 6, Code 2013, is amended
12 to read as follows:

13 6. a. Property, interest in property, or income
14 passing to the surviving spouse, and parents, grandparents,
15 great-grandparents, and other lineal ascendants, children
16 including legally adopted children and biological children
17 entitled to inherit under the laws of this state, stepchildren,
18 and grandchildren, great-grandchildren, and other lineal
19 descendants, is not taxable under this section.

20 b. Family farm property is exempt from tax as provided in
21 section 450.9A.

22 EXPLANATION

23 BACKGROUND — INHERITANCE TAX. Code chapter 450 imposes an
24 inheritance tax on real estate and tangible personal property
25 located in this state.

26 BACKGROUND — CONSANGUINITY AND AFFINITY. Generally, an
27 inheritance tax is assessed differently upon family members
28 of the decedent. An individual's familial relationship is
29 classified according to an assigned number (degree) that
30 separates the individual from an ancestor (consanguinity) or
31 from a spouse's ancestor (affinity). In either case, the
32 relationship is measured lineally where one person is ascending
33 from an ancestor (father, grandfather, great-grandfather, and
34 so on) or descending from that ancestor (child, grandchild,
35 great-grandchild, and so on). Alternatively, the relationship

1 may be measured collaterally where two individuals share a
 2 common ancestor but not by linear ascent or descent (e.g., a
 3 brother, sister, uncle, or cousin).

4 For consanguinity, the first degree includes a parent or
 5 child; the second degree includes a grandparent, sibling, or
 6 grandchild; the third degree includes a great-grandparent,
 7 aunt or uncle, niece or nephew, or great-grandchild; and
 8 the fourth degree includes a great-niece or great-nephew,
 9 great-aunt or great-uncle, or first cousin. For affinity,
 10 family relationships are measured on the spouse's side in the
 11 same manner.

12 CURRENT INHERITANCE TAX — RATES. The amount of inheritance
 13 tax assessed on property in Iowa depends upon the status of
 14 the inheriting person and, if the person is an individual, the
 15 amount of that individual's inheritance share. For example,
 16 for property passing to a second degree family member (brother
 17 or sister, or son-in-law or daughter-in-law) the bottom rate
 18 is 5 percent on an amount up to \$12,500 and the top rate is
 19 10 percent on an amount in excess of \$150,000. For all other
 20 individuals, the bottom rate is 10 percent on an amount up to
 21 \$50,000 and the top rate is 15 percent on an amount in excess of
 22 \$100,000. A for-profit corporation is assessed a single rate
 23 of 15 percent.

24 CURRENT INHERITANCE TAX — EXEMPTIONS FOR INDIVIDUALS.
 25 Currently, an individual is exempt from inheritance tax if the
 26 individual is related to the decedent as a spouse or stepchild;
 27 as a lineal ascendant beginning with a parent (first degree),
 28 and then grandparent (second degree), great-grandparent (third
 29 degree), great-great-grandparent (fourth degree) and so on; or
 30 as a lineal descendant beginning with child (first degree),
 31 and then grandchild (second degree), great-grandchild (third
 32 degree), great-great-grandchild (fourth degree), and so on.

33 BILL — PROPOSED INHERITANCE TAX ON FARM REAL ESTATE. The
 34 bill exempts (1) a person inheriting family farm property
 35 within the second, third, or fourth degree of consanguinity

1 or affinity, (2) more than one individual where the divided
2 interest is shared by individuals related within that degree,
3 (3) a partnership where all partners are related within that
4 degree, or (4) a family farm corporation or family farm limited
5 liability company (Code chapter 9H) where equity holders are so
6 related. Family farm property includes farm real estate of 10
7 acres or more where a farming operation is located and any farm
8 machinery and equipment used in the farming operation. The
9 interest in the farm real estate must pass in fee simple.

10 BILL — SPECIAL CLAW-BACK PROVISION. The bill requires a
11 qualified exemption statement to be filed in the office of the
12 county recorder of the county in which the farm real estate
13 is located, with a copy of the statement delivered to the
14 department in lieu of the tax payment. A person who is passed
15 the family farm property is liable for the inheritance tax if
16 the person conveys the farm real estate to a person who is not
17 related within the fourth degree of consanguinity or affinity
18 to the decedent within 10 years after the decedent's death.
19 The department is required to assess interest on the amount due
20 as if the tax was delinquent.

21 BILL — QUALIFIED LIEN. The bill creates a qualified
22 lien on the farm real estate that is subject to the family
23 farm property qualified tax exemption. The department of
24 revenue is the lienholder. The amount of the qualified lien
25 equals the amount of the person's tax liability and interest.
26 The qualified lien is based on a current lien used by the
27 department of revenue (Code section 450.7). The qualified
28 lien expires after a person eligible to make an election for a
29 qualified exemption is no longer liable for the tax.

30 BILL — APPLICABILITY. This Act applies to estates of
31 decedents dying on or after July 1, 2013.